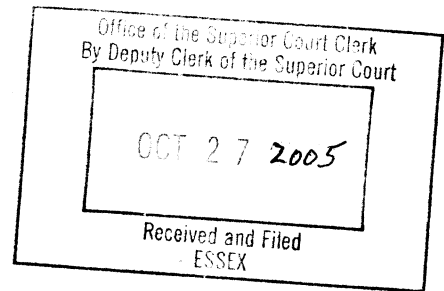


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Attorney for Plaintiffs



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SUPERIOR COURT OF NEW JERSEY  
CHANCERY DIVISION  
ESSEX COUNTY  
DOCKET NO.: C-348-05

PETER C. HARVEY, Attorney General of the  
State of New Jersey, and KIMBERLY S.  
RICKETTS, Director of the New Jersey Division  
of Consumer Affairs,

Plaintiffs,

v.

CABINETS PLUS OF SOUTH ORANGE, INC.  
d/b/a THE CABINET CORNER d/b/a CABINETS  
PLUS and JOSEPH P. LANDOLFI, individually  
and as an owner, officer, director, shareholder,  
founder, manager, agent, servant, employee and/or  
representative of CABINETS PLUS OF SOUTH  
ORANGE, INC. d/b/a THE CABINET CORNER  
d/b/a CABINETS PLUS, JOHN AND JANE  
DOES 1-10, individually and as owners, officers,  
directors, shareholders, founders, managers,  
agents, servants, employees and/or representatives  
of CABINETS PLUS OF SOUTH ORANGE,  
INC. d/b/a THE CABINET CORNER d/b/a  
CABINETS PLUS, and XYZ CORPORATIONS  
1-10,

Defendants.

Civil Action

**COMPLAINT**

Plaintiffs Peter C. Harvey, Attorney General of the State of New Jersey, with offices located at 124 Halsey Street, Fifth Floor, Newark, New Jersey, and Kimberly S. Ricketts, Director of the New Jersey Division of Consumer Affairs, with offices located at 124 Halsey Street, Seventh Floor, Newark, New Jersey by way of complaint state:

### **JURISDICTION AND PARTIES**

1. The Attorney General of the State of New Jersey (“Attorney General”) is charged with the responsibility of enforcing the New Jersey Consumer Fraud Act (“CFA”), N.J.S.A. 56:8-1 et seq., and all regulations promulgated thereunder, N.J.A.C. 13:45A-1.1 et seq. The Director of the New Jersey Division of Consumer Affairs (“Director”) is charged with the responsibility of administering on behalf of the Attorney General the CFA and the regulations promulgated thereunder.

2. By this action, the Attorney General and the Director (collectively referred to as “Plaintiffs”) seek injunctive and other relief for violations of the CFA and the regulations promulgated thereunder. Plaintiffs bring this action pursuant to their authority under the CFA, specifically N.J.S.A. 56:8- 8, 56:8-11, 56:8-13 and 56:8-19. Venue is proper in Essex County, pursuant to R. 4:3-2, because it is the county in which the defendants have conducted business and in which they have maintained a principal place to conduct business.

3. Defendant Cabinets Plus of South Orange, Inc. d/b/a The Cabinet Corner d/b/a Cabinets Plus (“Cabinet Corner”) is a corporation established in the State of New Jersey (the “State”) on August 17, 2001. Upon information and belief, at all relevant times, Cabinet Corner maintained a principal place of business at 366 Lackawanna Place, South Orange, New Jersey 07079. Cabinet Corner’s registered agent in the State is Joseph P. Landolfi (“Landolfi”).

4. Upon information and belief, at all relevant times, defendant Landolfi has been an owner, officer, director, shareholder, founder, manager, agent, servant, employee and/or representative of Cabinet Corner. Upon information and belief, at all relevant times, Landolfi has maintained an address of 366 Lackawanna Place, South Orange, New Jersey 07079 and/or 20 Overhill Way, Berkeley Heights, New Jersey 07922.

5. Upon information and belief, John and Jane Does 1 through 10 are fictitious individuals meant to represent owners, officers, directors, shareholders, founders, managers, agents, servants, employees and/or representatives of Cabinet Corner who have been involved in the conduct that gives rise to this Complaint, but are heretofore unknown to the Plaintiffs. As these Defendants are identified, Plaintiffs shall amend the Complaint to include them.

6. Upon information and belief, XYZ Corporations 1 through 10 are fictitious corporations meant to represent any additional corporations who have been involved in the conduct that gives rise to this Complaint, but are heretofore unknown to Plaintiffs. As these defendants are identified, Plaintiffs shall amend the Complaint to include them.

7. Cabinet Corner and Landolfi are collectively referred to as "Defendants."

#### **GENERAL ALLEGATIONS**

8. Upon information and belief, since at least August 2002, Defendants had been engaged in the business of performing home improvement work in the State including, but not limited to, kitchen and bathroom remodeling, installation of cabinets, doors, windows, ceilings, heating systems, siding and flooring.

9. Upon information and belief, Defendants had entered into home improvement contracts with consumers in the State to perform home improvement work including, but not limited

to, kitchen and bathroom remodeling, installation of cabinets, doors, windows, ceilings, heating systems, siding and flooring.

## COUNT I

### **VIOLATIONS OF THE CFA BY DEFENDANTS (UNCONSCIONABLE COMMERCIAL PRACTICES)**

10. Plaintiffs repeat and reallege the allegations contained in paragraphs 1 through 9 above as if more fully set forth herein.

11. The CFA, N.J.S.A. 56:8-2, prohibits:

The act, use or employment by any person of any unconscionable commercial practice, deception, fraud, false pretense, false promise, misrepresentation, or the knowing [] concealment, suppression, or omission of any material fact with intent that others rely upon such concealment, suppression or omission, in connection with the sale or advertisement of any merchandise....

12. In the operation of their home improvement business, Defendants have engaged in the use of unconscionable commercial practices, false promises, misrepresentations and/or the knowing concealment, suppression or omission of material facts.

13. Defendants have engaged in unconscionable commercial practices including, but not limited to, the following:

- a. Failing to commence the work specified in home improvement contracts;
- b. Failing to complete the work specified in home improvement contracts;
- c. Failing to provide consumers with timely written notice of a delay in the commencement or completion of home improvement work;
- d. Accepting payment for home improvement work that Defendants never commenced;

- e. Accepting payment for home improvement work that Defendants never completed;
  - f. Failing to order the necessary materials to begin the home improvement work;
  - g. Failing to apply the consumers' deposits to the purchase of materials necessary to commence the home improvement work;
  - h. Removing materials purchased by a consumer from the consumer's home, without the consumer's knowledge or permission;
  - i. Failing to provide consumers with refunds for home improvement work that Defendants never commenced;
  - j. Failing to provide consumers with refunds for home improvement work that Defendants never completed;
  - k. Promising, then failing, to provide a consumer with a refund;
  - l. Causing damage to a consumer's home while performing home improvement work, and then failing to repair such damage; and
  - m. Failing to respond to consumers' inquiries in a timely manner or at all.
14. Each unconscionable commercial practice by Defendants constitutes a separate

violation under the CFA, N.J.S.A. 56:8-2.

## COUNT II

### **VIOLATION OF THE CFA BY DEFENDANTS (FALSE PROMISES, MISREPRESENTATIONS AND KNOWING OMISSIONS OF MATERIAL FACT)**

15. Plaintiffs repeat and reallege the allegations contained in paragraphs 1 through 14 above as if more fully set forth herein.

16. In the operation of their home improvement business, Defendants have made false promises and/or misrepresentations including, but not limited to, the following:

- a. Misrepresenting the actual purpose and use of consumers' deposits; and
- b. Misrepresenting that materials were ordered to permit commencement of contracted for home improvement work.

17. In the operation of their home improvement business, Defendants have engaged in knowing omissions of material fact including, but not limited to, the following:

- a. Failing to include in home improvement contracts the date or time period within which work is to commence;
- b. Failing to include in home improvement contracts the date or time period within which the work is to be completed; and
- c. Failing to advise consumers that their deposits were not applied to purchase materials for their contracted for home improvement work.

18. Each false promise, misrepresentation and/or knowing omission of material fact by Defendants constitutes a separate violation under the CFA, N.J.S.A. 56:8-2.

### COUNT III

#### VIOLATION OF THE HOME IMPROVEMENT PRACTICES REGULATIONS BY DEFENDANTS

19. Plaintiffs repeat and reallege the allegations contained in paragraphs 1 through 18 above as if more fully set forth herein.

20. The Regulations Governing Home Improvement Practices, N.J.A.C. 13:45A-16.1 et seq. ("Home Improvement Regulations"), promulgated pursuant to the CFA, among other things, prohibit certain acts and practices of a seller in connection with the sale, advertisement or performance of home improvement contracts.

21. Defendants are "seller[s]" within the definition of N.J.A.C. 13:45A-16.1.

22. At all relevant times, Defendants entered into "home improvement contracts" within the definition of N.J.A.C. 13:45A-16.1.

23. The Home Improvement Regulations provide, in pertinent part:

- a. Without limiting any other practices which may be unlawful under the Consumer Fraud Act, N.J.S.A. 56:8-1 et seq., utilization of a seller of the following acts and practices involving the sale, attempted sale, advertisement or performance of home improvements shall be unlawful hereunder:

....

7. Performance:

....

- ii. Fail to begin or complete work on the date or within the time period specified in the home improvement contract, or as otherwise represented, unless the delay is for reason of labor stoppage; unavailability of supplies or materials, unavoidable casualties, or any other cause beyond seller's control. Any changes in the dates or time periods stated in a written contract shall be agreed to in writing; or

- iii. Fail to give timely written notice to the buyer of reasons beyond the seller's control for any delay in performance, and when the work will begin or be completed.

[N.J.A.C. 13:45A-16.2(a)(7)(ii), (iii).]

24. Additionally, the Home Improvement Regulations include a writing requirement for contracts priced in excess of \$200.00 and provide, in pertinent part:

- 12. Home improvement contract requirements - writing requirement: All home improvement contracts for a purchase price in excess of \$200.00, and all changes in the terms and conditions thereof shall be in writing. Home improvement contracts which are required by this subsection to be in writing, and all changes in the terms and conditions thereof, shall be signed by all parties thereto, and shall clearly and accurately set forth in legible form all terms and conditions of the contract, including, but not limited to, the following:

....

- iv. The dates or time period on or within the work is to begin and be completed by seller;

....

[N.J.A.C. 13:45A-16.2(a)(12)(iv).]

25. Defendants violated the Home Improvement Regulations by engaging in certain conduct including, but not limited to:

- a. Failing to complete the work by the date or within the time period represented to the consumers;
- b. Failing to complete the work by the date or within the time period specified in the home improvement contract;
- c. Failing to provide consumers with timely written notice of a delay in the commencement or completion of home improvement work;
- d. Failing to obtain consumers' written consent to any changes in the commencement and/or completion dates specified in the home improvement contract;



- e. Failing to include in home improvement contracts the dates or time periods on or within which the work is to commence; and
- f. Failing to include in home improvement contracts the dates or time periods on or within which the work is to be completed.

26. Defendants' conduct constitutes multiple violations of the Home Improvement Regulations, N.J.A.C. 13:45A-1.1 et seq., each of which constitutes a per se violation of the CFA, N.J.S.A. 56:8-1 et seq.

#### **COUNT IV**

#### **VIOLATIONS OF THE CFA AND/OR THE HOME IMPROVEMENT REGULATIONS BY DEFENDANT LANDOLFI**

27. Plaintiffs repeat and reallege the allegations contained in paragraphs 1 through 28 above as if more fully set forth at length herein.

28. At all relevant times, Landolfi was owner, officer, director, shareholder, founder, manager, agent, servant, employee and/or representative of Cabinet Corner and controlled and directed the activities of that entity.

29. Landolfi is personally liable for the violations of the CFA and/or the Home Improvement Regulations committed by Cabinet Corner.

#### **PRAYER FOR RELIEF**

WHEREFORE, based upon the foregoing allegations, Plaintiffs respectfully request that the Court enter judgment against Defendants:

- (a) Finding that the acts and omissions of Defendants constitute multiple violations of the CFA, N.J.S.A. 56:8-1 et seq., and the Regulations promulgated thereunder, specifically the Home Improvement Regulations, N.J.A.C. 13:45A-16.1 et seq.;

- (b) Permanently enjoining Defendants and their owners, agents, employees and representatives and all other persons or entities directly under their control, from engaging in, continuing to engage in, or doing any acts or practices in violation of the CFA, N.J.S.A. 56:8-1 et seq., and the Home Improvement Regulations, N.J.A.C. 13:45A-16.1 et seq., including, but not limited to, the acts and practices alleged in this Complaint;
- (c) Directing the assessment of restitution amounts against Defendants, jointly and severally, to restore any affected person, whether or not named in this Complaint, any money or real or personal property acquired by means of any alleged practice herein to be unlawful, as authorized by the CFA, N.J.S.A. 56:8-8;
- (d) Assessing the maximum statutory civil penalties against Defendants, jointly and severally, for each and every violation of the CFA, in accordance with N.J.S.A. 56:8-13;
- (e) Directing the assessment of cost and fees, including attorneys' fees, against Defendants, jointly and severally, for the use of the State of New Jersey, as authorized by the CFA, N.J.S.A. 56:8-11 and N.J.S.A. 56:8-19; and
- (f) Granting such other relief as the interests of justice may require.

PETER C. HARVEY  
ATTORNEY GENERAL OF NEW JERSEY  
Attorney for Plaintiffs

By: Amye R. Steinberg  
Amye R. Steinberg  
Deputy Attorney General

Dated: October 27, 2005  
Newark, New Jersey

**RULE 4:5-1 CERTIFICATION**

I certify, to the best of my information and belief, that the matter and controversy in this action involving the aforementioned violations of the New Jersey Consumer Fraud Act, N.J.S.A. 56:8-1 et seq., is not the subject of any other action pending in any other court of this State. I am aware of the following action commenced by an individual who submitted a consumer complaint to the New Jersey Division of Consumer Affairs: Penny Vonoczky v. Joseph P. Landolfi, Superior Court of New Jersey, Law Division, Special Civil Part- Bergen County, Docket No. 00531-2004. However, I have no direct information that this action includes consumer fraud allegations. I am also aware that the Defendants are parties to certain other private contract, real property and/or personal injury actions, but I have no direct information that any such actions involve consumer fraud allegations. I further certify that the matter in controversy in this action is not the subject of a pending arbitration proceeding in this State, nor is any other action or arbitration proceeding contemplated. I certify that there is no other party who should be joined in this action at this time.

PETER C. HARVEY  
ATTORNEY GENERAL OF NEW JERSEY  
Attorney for Plaintiffs

By: Amye R. Steinberg  
Amye R. Steinberg  
Deputy Attorney General

Dated: October 27, 2005  
Newark, New Jersey

**DESIGNATION OF TRIAL COUNSEL**

Pursuant to R. 4:25-4, Amye R. Steinberg, Deputy Attorney General, is hereby designated as trial counsel on behalf of Plaintiffs in this matter.

PETER C. HARVEY  
ATTORNEY GENERAL OF NEW JERSEY

By: Amye R. Steinberg  
Amye R. Steinberg  
Deputy Attorney General

Dated: October 27, 2005  
Newark, New Jersey